

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Received by
EPA Region 7
Hearing Clerk

In the Matter of)	
)	
Stellar Industries, Inc.)	Docket No. RCRA-07-2022-0107
190 State Street)	
Garner, Iowa 50438)	EXPEDITED SETTLEMENT
EPA ID No. IA0000444802)	AGREEMENT AND FINAL ORDER
)	
<u>Respondent.</u>)	

EXPEDITED SETTLEMENT AGREEMENT

- 1) The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.13(b).
- 2) The EPA has provided the State of Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Stellar Industries, Inc. (“Respondent”) is the owner or operator of the facility located at 190 State Street, Garner, Iowa 50438 (“Facility”). The EPA inspected the Facility on June 22, 2022. The EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. 40 C.F.R. § 262.15(a) states that a generator may accumulate as much as fifty-five (55) gallons of non-acute hazardous waste or either one quart of liquid acute hazardous waste or 1 kg (2.2 lbs) of solid acute hazardous waste in containers at or near any point of generation where wastes are initially accumulated which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of parts 124, 264 through 267, and 270, provided that all of the conditions for exemption in this section are met. Because Respondent failed to comply with the satellite accumulation conditional exclusions described below, Respondent was not authorized to accumulate hazardous waste at the satellite accumulation areas for any length of time, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
 - i. 40 C.F.R. § 262.15(a)(5)(i) requires that a generator mark or label satellite accumulation containers with the words “Hazardous Waste.” At the time of the EPA inspection, 19 of 21 satellite accumulation containers holding hazardous waste were not labeled with the words “Hazardous Waste.”
 - ii. 40 C.F.R. § 262.15(a)(5)(ii) requires that a generator mark or label satellite

accumulation containers with an indication of the hazards of the contents. At the time of the EPA inspection, 19 of 21 satellite accumulation containers holding hazardous waste were not labeled with an indication of the hazards of the contents.

- b. 40 C.F.R. § 262.17 states that a large quantity generator (LQG) may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of 40 C.F.R. parts 124, 264 through 267 and 270, or the notification requirements of section 3010 of RCRA, provided that all the conditions for exemption listed at 40 C.F.R. § 264.17 are met. Because the following conditions for exemption for an LQG were not met, Respondent was not authorized to store hazardous waste at the Facility, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.
 - i. 40 C.F.R. § 262.17(a)(7)(iii) requires facility personnel to take part in an annual review of the initial training required in 40 C.F.R. § 262.17(a)(7)(i). At the time of the EPA inspection, two emergency coordinators at the facility had not received the annual review of their initial training.
 - ii. 40 C.F.R. § 262.17(a)(6) referencing 40 C.F.R. § 262.263(c) requires generators to review and immediately amend the contingency plan when the generator facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency. At the time of the EPA inspection, the facility had added a second central accumulation area for hazardous waste and had begun using a still to recover waste solvent for reuse; both substantially changing the hazardous waste operations of the facility but had not amended its contingency plan.
- c. 40 C.F.R. § 273.14(a) requires a small quantity handler of universal waste batteries to clearly label or mark the universal waste batteries or a container in which batteries are contained with any one of the following phrases: “Universal Waste—Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).” At the time of the EPA inspection, one five-gallon bucket of universal waste batteries was not labeled. Respondent’s failure to label one five-gallon bucket of universal waste batteries is a violation of 40 C.F.R. § 273.14(a).
- d. 40 C.F.R. § 273.14(e) requires a small quantity handler of universal waste lamps to label or mark each universal waste lamp or a container or package in which such lamps are contained with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).” At the time of the EPA inspection, three four-foot boxes of universal waste lamps were not labeled. Respondent’s failure to label three four-foot boxes of universal waste lamps is a violation of 40 C.F.R. § 273.14(e).

- e. 40 C.F.R. § 273.15(c) requires a small quantity handler of universal waste who accumulates universal waste to be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may use various ways to demonstrate the accumulation time. At the time of the EPA inspection, the facility was unable to demonstrate the accumulation time for one five-gallon container of universal waste batteries. Respondent's inability to demonstrate the accumulation time for one five-gallon container of universal waste is violation of 40 C.F.R. § 273.15(c).
- 4) The EPA and Respondent agree that settlement of this matter for a civil penalty of Eight Thousand Seven Hundred and Fifty dollars (\$8,750.00) is in the public interest. Respondent certifies that it has provided a deposit for payment for the full civil penalty amount, and that such payment identified Respondent by name and docket number, was made by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

- 5) A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

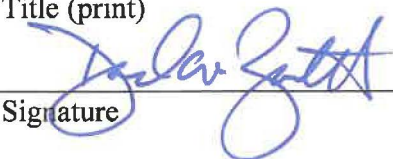
Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Milady Peters, Paralegal
peters.milady@epa.gov.

In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) agrees to release funds held on deposit as payment to the EPA for the civil penalty upon final EPA approval of this Agreement; (6) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (7) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (8) consents to electronic service of the filed ESA to the following email address: broberts@stellarindustries.com. Respondent understands that the CAFO will become publicly available upon filing.

- 6) By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, (2) it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA, and (3) Respondent is submitting proof of payment of the civil penalty with this Agreement.
- 7) The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
- 8) EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
- 9) Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. The EPA reserves the right to take any enforcement action with respect to any other past, present, or future violations of RCRA or any other applicable law.
- 10) The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.
- 11) Each party shall bear its own costs and fees, if any.
- 12) This Agreement is binding on the parties signing below.

IT IS SO AGREED,

David W. Zrostlik
Name (print)
President - Stellar Industries, Inc.
Title (print)
 8/31/2022
Signature Date

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Kelley Catlin, Attorney
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date _____

CERTIFICATE OF SERVICE
To be completed by EPA

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order, EPA Docket No. RCRA-07-2022-0107, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Kelley Catlin, Office of Regional Counsel
catlin.kelley@epa.gov

Edwin Buckner, Enforcement and Compliance Assurance Division
buckner.edwin@epa.gov

Milady Peters, Office of Regional Counsel
peters.milady@epa.gov

Copy via e-mail to the Respondent:

Mr. Brian Roberts
Safety and Environmental Coordinator
Stellar Industries Inc.
broberts@stellarindustries.com

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator
Environmental Services Division
Iowa Department of Natural Resources
ed.tormey@dnr.iowa.gov

Mike Sullivan, Section Supervisor
Solid Waste and Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, _____.

Signed